

FREQUENTLY ASKED QUESTION # 15: WHAT ARE MY RESPONSIBILITIES REGARDING CONTINUATION OF PAY (COP?)



What is COP? *Continuation of Pay* is defined as a continuation of regular pay for up to 45 calendar days due to disability or medical appointments related to a traumatic injury. The intent of providing this pay is to avoid interruption of pay while a determination is made on the validity of the claim. COP is paid by the agency not the Office of Workers' Compensation Programs (OWCP). You have two separate issues that must be tracked:

- Days (whole days or part of a day) that apply toward the 45-days of allowed COP
- Total hours of "injury leave" paid for any one injury

When does the COP entitlement period begin? The first day or shift *after* the date of injury that the employee is scheduled to work is the first day the employee is entitled to begin using COP. However, the employee may choose to begin using COP anytime during the 45-day period that follows the date of injury.

Any time lost on the date of injury, should be charged to administrative leave.

How is COP entitlement computed?

- COP entitlement days are tracked in whole days – beginning on the first day after the injury date.
- COP entitlement should be charged for weekends and holidays if the medical evidence shows that the employee was disabled on the days in question. (i.e. the employee did not work Friday and Monday.)
- If an employee is only absent from work for 2 hours for a medical appointment, the COP entitlement is still calculated as one whole day.

How is injury leave calculated?

- An employee is paid injury leave for his or her entire shift when he or she is absent the entire shift.
- When the employee is absent for part of a shift due to an injury, he or she is expected to only use the injury leave for hours absent. For example, if an injured employee needs three hours of leave for physical therapy, he or she will be paid injury leave for those three hours only, not for the entire shift.

How do we track the COP entitlement period? The ARC WC Specialist will work closely with supervisors, timekeepers, and employees to ensure that COP hours are tracked appropriately (and recorded correctly on the timecard) and that COP is used only within the appropriate entitlement period. As the circumstances of the employee's absence change (extension of time off, return to work, request for light/modified duty), contact the ARC WC Specialist. Copies of appropriate documents, time records, etc. should be forwarded to ARC.

When does the COP entitlement period end?

- When the OWCP makes a final determination regarding the status of the claim. If the claim is denied, then the employee will be responsible for "paying back" the injury leave.
- When the 45-day allotment is exhausted.
- When the employee does not provide appropriate medical documentation within 10 workdays of the injury. If the supervisor is satisfied that the employee sustained a disabling traumatic injury, the 10 workday requirement may be waived.

- When the employee
 - Returns to regular duty;
 - Returns to light/modified duty with no loss in pay;
 - Refuses a suitable light/modified duty position.

When am I not required to pay COP? If you have factual evidence that one of the following situations exists, you can refuse to pay COP. ***Notify the ARC WC Specialist before denying COP.***

- The disability was not caused by a traumatic injury.
- The employee is not a citizen of the United States or Canada.
- No written claim was filed within 30 days from the date of injury.
- The injury was not reported until after employment has been terminated.
- The injury occurred off the employing agency's premises and was otherwise not within the performance of official duties.
- The injury was caused by the employee's willful misconduct, intent to injure or kill himself or herself or another person, or was proximately caused by intoxication by alcohol or illegal drugs.
- Work did not stop until more than 45 days following the injury.

What happens when the employee does not return to work at the end of the 45-days?

- If the employee provides appropriate medical documentation indicating that they are still unable to return to regular duty, and no suitable light/modified duty can be given, the employee will be told they have two options for continued absence:
 - Apply annual or sick leave
 - Request LWOP
- A determination of whether the employee is AWOL is made.

CRITICAL ISSUES:

Can I require that the employee take annual or sick leave instead of COP? **No.** If the employee is entitled to COP, they have the choice of taking COP instead of annual or sick leave.

What if the employee doesn't want to use "injury leave?" The employee is not required to use injury leave. They may wish to elect annual or sick leave to cover all or part of an absence due to injury. However, if the employee elects to use his or her own leave, each full or partial day for which leave is taken will be counted against the 45 allotted COP days.

What if we dispute the workers compensation claim or payment of COP for reasons other than what are outlined above? You must allow the employee to use COP until OWCP makes a final determination. **See FAQ # 17.**

What if the employee returns to work but there is a recurrence and they go off duty again? If an employee has returned to work without using his entire 45-days of injury leave and suffers a recurrence of the injury, he *may* be eligible to use the rest of his 45-days of injury leave. Contact the ARC WC Specialist for COP guidance in the event of a recurrence.

**Questions? Contact the ARC WC Specialist at (304) 480-8229
or email questions to WorkersComp@bpd.treas.gov**